

AMENDED IN SENATE MARCH 11, 2008

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 131**

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**Introduced by Assembly Member Beall**

**(Coauthors: Assembly Members Coto, DeSaulnier, Dymally, Eng,  
Hancock, Horton, Maze, and Mendoza)**

**(Coauthor: Senator Romero)**

January 12, 2007

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*An act to amend Sections 52378, 52379, and 52380 of the Education Code, relating to pupils. An act to amend Sections 8250 and 8263 of the Education Code, relating to state preschool programs.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 131, as amended, Beall. ~~The Middle and High School Supplemental Counseling Program.~~ *State preschool programs: children with exceptional needs.*

*(1) Existing law requires the Superintendent of Public Instruction to ensure that all eligible children with exceptional needs are give equal access to child care and development programs.*

*This bill would require that no more than 20% of the children in a state preschool class be children with exceptional needs who receive education and related services pursuant to an individualized education program.*

*(2) Existing law requires a family to be a current aid recipient, income eligible, homeless, or be a family whose children are recipients of protective services, or whose children have been identified as being*

*abused, neglected, or exploited, or at risk of being abused, neglected, or exploited, and to meet other specified criteria, in order to be eligible for federal and state subsidized child development services.*

*This bill, in addition, would allow an otherwise eligible family that is seeking to enroll a child with exceptional needs in a state preschool program to be eligible for subsidized child development services.*

~~Existing law establishes the Middle and High School Supplemental Counseling Program and requires the governing board of a school district that maintains any of grades 7 to 12, inclusive, as a condition of receiving funds appropriated for purposes of that program, to adopt a counseling program at a public meeting that includes, among other things, a provision for a counselor to meet with each pupil, as specified, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, and the availability of career guidance activities.~~

~~This bill would make the program available to county offices of education. The bill would also make conforming and other technical, nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 8250 of the Education Code is amended*  
2     *to read:*

3     8250. (a) The Superintendent shall ensure that eligible children  
4     with exceptional needs are given equal access to all child care and  
5     development programs. Available federal and state funds for  
6     children with exceptional needs above the standard reimbursement  
7     amount shall be used to assist agencies in developing and  
8     supporting appropriate programs for these children.

9     (b) To provide children with exceptional needs with additional  
10    access to child care and development programs, the Superintendent  
11    shall establish alternate appropriate placements, such as  
12    self-contained programs and innovative programs using the least  
13    restrictive environment. These programs shall be started as  
14    expansion funds become available and shall be expanded  
15    throughout the implementation of the plan. The Superintendent  
16    shall utilize existing program models and input from program

1 specialists to develop new program criteria and guidelines for  
2 programs serving children with exceptional needs. These programs  
3 may serve children with exceptional needs up to 21 years of age.

4 (c) Any child with exceptional needs served in child care and  
5 development programs shall be afforded all rights and protections  
6 guaranteed in state and federal laws and regulations for individuals  
7 with exceptional needs.

8 (d) *No more than 20 percent of the children in a state preschool*  
9 *class shall be children with exceptional needs who receive their*  
10 *education and related services pursuant to an individualized*  
11 *education program.*

12 ~~(d)~~

13 (e) Notwithstanding any other provision of this chapter, the  
14 Superintendent may develop unique reimbursement rates for, and  
15 make reimbursements to, child care and development programs  
16 that received state funding for the 1980–81 fiscal year and serve  
17 severely disabled children, as defined in subdivision (y) of Section  
18 8208, when all of the following conditions exist:

19 (1) Eligibility for enrollment of a severely disabled child in the  
20 program is the sole basis of the child’s need for service.

21 (2) Services are provided to severely disabled children from  
22 birth to 21 years of age.

23 (3) No fees are charged to the parents of the severely disabled  
24 children receiving the services.

25 ~~(e)~~

26 (f) The Superintendent shall include child care and development  
27 providers in all personnel development for persons providing  
28 services for children with exceptional needs.

29 *SEC. 2. Section 8263 of the Education Code is amended to*  
30 *read:*

31 8263. (a) The Superintendent shall adopt rules and regulations  
32 on eligibility, enrollment, and priority of services needed to  
33 implement this chapter. In order to be eligible for federal and state  
34 subsidized child development services, families shall meet at least  
35 one requirement in each of the following areas:

36 (1) A family is (A) a current aid recipient, (B) income eligible,  
37 (C) homeless, ~~or~~ (D) one whose children are recipients of protective  
38 services, ~~or~~ whose children have been identified as being abused,  
39 neglected, or exploited, or at risk of being abused, neglected, or  
40 exploited, *or (E) seeking to enroll a child with exceptional needs*

1 *who receives his or her education and related services pursuant*  
2 *to an individualized education program in a state preschool*  
3 *program.*

4 (2) A family needs the child care services (A) because the child  
5 is identified by a legal, medical, social services agency, or  
6 emergency shelter as (i) a recipient of protective services or (ii)  
7 being neglected, abused, or exploited, or at risk of neglect, abuse,  
8 or exploitation, or (B) because the parents are (i) engaged in  
9 vocational training leading directly to a recognized trade,  
10 paraprofession, or profession, (ii) employed or seeking  
11 employment, (iii) seeking permanent housing for family stability,  
12 or (iv) incapacitated.

13 (b) Except as provided in Article 15.5 (commencing with Section  
14 8350), priority for state and federally subsidized child development  
15 services is as follows:

16 (1) (A) First priority shall be given to neglected or abused  
17 children who are recipients of child protective services, or children  
18 who are at risk of being neglected or abused, upon written referral  
19 from a legal, medical, or social services agency. If an agency is  
20 unable to enroll a child in the first priority category, the agency  
21 shall refer the family to local resource and referral services to  
22 locate services for the child.

23 (B) A family who is receiving child care on the basis of being  
24 a child at risk of abuse, neglect, or exploitation, as defined in  
25 subdivision (k) of Section 8208, is eligible to receive services  
26 pursuant to subparagraph (A) for up to three months, unless the  
27 family becomes eligible pursuant to subparagraph (C).

28 (C) A family may receive child care services for up to 12 months  
29 on the basis of a certification by the county child welfare agency  
30 that child care services continue to be necessary or, if the child is  
31 receiving child protective services during that period of time, and  
32 the family requires child care and remains otherwise eligible. This  
33 time limit does not apply if the family's child care referral is  
34 recertified by the county child welfare agency.

35 (2) Second priority shall be given equally to eligible families,  
36 regardless of the number of parents in the home, who are income  
37 eligible. Within this priority, families with the lowest gross monthly  
38 income in relation to family size, as determined by a schedule  
39 adopted by the Superintendent, shall be admitted first. If two or  
40 more families are in the same priority in relation to income, the

1 family that has a child with exceptional needs shall be admitted  
2 first. If there is no family of the same priority with a child with  
3 exceptional needs, the same priority family that has been on the  
4 waiting list for the longest time shall be admitted first. For purposes  
5 of determining order of admission, the grants of public assistance  
6 recipients shall be counted as income.

7 (3) The Superintendent shall set criteria for and may grant  
8 specific waivers of the priorities established in this subdivision for  
9 agencies that wish to serve specific populations, including children  
10 with exceptional needs or children of prisoners. These new waivers  
11 shall not include proposals to avoid appropriate fee schedules or  
12 admit ineligible families, but may include proposals to accept  
13 members of special populations in other than strict income order,  
14 as long as appropriate fees are paid.

15 (c) Notwithstanding any other provision of law, in order to  
16 promote continuity of services, a family enrolled in a state or  
17 federally funded child care and development program whose  
18 services would otherwise be terminated because the family no  
19 longer meets the program income, eligibility, or need criteria may  
20 continue to receive child development services in another state or  
21 federally funded child care and development program if the  
22 contractor is able to transfer the family's enrollment to another  
23 program for which the family is eligible prior to the date of  
24 termination of services or to exchange the family's existing  
25 enrollment with the enrollment of a family in another program,  
26 provided that both families satisfy the eligibility requirements for  
27 the program in which they are being enrolled. The transfer of  
28 enrollment may be to another program within the same  
29 administrative agency or to another agency that administers state  
30 or federally funded child care and development programs.

31 (d) In order to promote continuity of services, the Superintendent  
32 may extend the 60-working-day period specified in subdivision  
33 (a) of Section 18101 of Title 5 of the California Code of  
34 Regulations for an additional 60 working days if he or she  
35 determines that opportunities for employment have diminished to  
36 the degree that one or both parents cannot reasonably be expected  
37 to find employment within 60 working days and granting the  
38 extension is in the public interest. The scope of extensions granted  
39 pursuant to this subdivision shall be limited to the necessary  
40 geographic areas and affected persons, which shall be described

1 in the Superintendent's order granting the extension. It is the intent  
2 of the Legislature that extensions granted pursuant to this  
3 subdivision improve services in areas with high unemployment  
4 rates and areas with disproportionately high numbers of seasonal  
5 agricultural jobs.

6 (e) A physical examination and evaluation, including  
7 age-appropriate immunization, shall be required prior to, or within  
8 six weeks of, enrollment. A standard, rule, or regulation shall not  
9 require medical examination or immunization for admission to a  
10 child care and development program of a child whose parent or  
11 guardian files a letter with the governing board of the child care  
12 and development program stating that the medical examination or  
13 immunization is contrary to his or her religious beliefs, or provide  
14 for the exclusion of a child from the program because of a parent  
15 or guardian having filed the letter. However, if there is good cause  
16 to believe that a child is suffering from a recognized contagious  
17 or infectious disease, the child shall be temporarily excluded from  
18 the program until the governing board of the child care and  
19 development program is satisfied that the child is not suffering  
20 from that contagious or infectious disease.

21 (f) Regulations formulated and promulgated pursuant to this  
22 section shall include the recommendations of the State Department  
23 of Health Care Services relative to health care screening and the  
24 provision of health care services. The Superintendent shall seek  
25 the advice and assistance of these health authorities in situations  
26 where service under this chapter includes or requires care of  
27 children who are ill or children with exceptional needs.

28 (g) (1) The Superintendent shall establish a fee schedule for  
29 families utilizing child care and development services pursuant to  
30 this chapter, including families receiving services under paragraph  
31 (1) of subdivision (b). Families receiving services under  
32 subparagraph (B) of paragraph (1) of subdivision (b) may be  
33 exempt from these fees for up to three months. Families receiving  
34 services under subparagraph (C) of paragraph (1) of subdivision  
35 (b) may be exempt from these fees for up to 12 months. The  
36 cumulative period of time of exemption from these fees for families  
37 receiving services under paragraph (1) of subdivision (b) shall not  
38 exceed 12 months.

39 (2) The income of a recipient of federal supplemental security  
40 income benefits pursuant to Title XVI of the federal Social Security

1 Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program  
2 benefits pursuant to Title XVI of the federal Social Security Act  
3 and Chapter 3 (commencing with Section 12000) of Part 3 of  
4 Division 9 of the Welfare and Institutions Code shall not be  
5 included as income for the purposes of determining the amount of  
6 the family fee.

7 (h) The family fee schedule shall include, but not be limited to,  
8 the following restrictions:

9 (1) Fees shall not be assessed for families whose children are  
10 enrolled in the state preschool program.

11 (2) A contractor or provider may require parents to provide  
12 diapers. A contractor or provider offering field trips either may  
13 include the cost of the field trips within the service rate charged  
14 to the parent or may charge parents an additional fee. Federal or  
15 state money shall not be used to reimburse parents for the costs of  
16 field trips if those costs are charged as an additional fee. A  
17 contractor or provider that charges parents an additional fee for  
18 field trips shall inform parents, prior to enrolling the child, that a  
19 fee may be charged and that no reimbursement will be available.  
20 A contractor or provider may charge parents for field trips or  
21 require parents to provide diapers only under the following  
22 circumstances:

23 (A) The provider has a written policy that is adopted by the  
24 agency's governing board that includes parents in the  
25 decisionmaking process regarding both of the following:

26 (i) Whether or not, and how much, to charge for field trip  
27 expenses.

28 (ii) Whether or not to require parents to provide diapers.

29 (B) The maximum total of charges per child in a contract year  
30 does not exceed twenty-five dollars (\$25).

31 (C) A child shall not be denied participation in a field trip due  
32 to the parent's inability or refusal to pay the charge. Adverse action  
33 shall not be taken against a parent for that inability or refusal.

34 Each contractor or provider shall establish a payment system  
35 that prevents the identification of children based on whether or  
36 not their parents have paid a field trip charge.

37 Expenses incurred and income received for field trips pursuant  
38 to this section shall be reported to the department. The income  
39 received for field trips shall be reported specifically as restricted  
40 income.

(i) The Superintendent shall establish guidelines for the collection of employer-sponsored child care benefit payments from a parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(j) The Superintendent shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(k) Public funds shall not be paid directly or indirectly to an agency that does not pay at least the minimum wage to each of its employees.

~~SECTION 1. Section 52378 of the Education Code is amended to read:~~

~~52378. The Middle and High School Supplemental Counseling Program is hereby established for the purpose of providing additional counseling services to pupils in grades 7 to 12, inclusive. As a condition of receiving funds, the governing board of a school district or county office of education maintaining any of grades 7 to 12, inclusive, shall do all of the following:~~

~~(a) Adopt a program at a public meeting of the governing board that includes all of the following:~~

~~(1) A provision for individualized review of the pupil's academic and deportment records;~~

~~(2) A provision for a counselor to meet with each pupil and if practicable, the parents or guardian of the pupil, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination and the availability of career technical education. The educational options explained at the meeting, if services are available, shall include the college preparatory program and vocational programs, including regional occupational centers and programs, and any other alternatives available to pupils within the district or county office of education.~~

~~(b) Identify pupils who are at risk of not graduating with their class, are not earning credits at a rate that will enable them to pass~~



1 the high school exit examination, or do not have sufficient training  
2 to allow them to fully engage in their chosen career, and do all of  
3 the following:

4 (1) Require each school within its jurisdiction that enrolls pupils  
5 in grades 10 and 12 to develop a list of coursework and experience  
6 necessary to assist each pupil in those grades who has not passed  
7 one or both parts of the high school exit examination to  
8 successfully transition to postsecondary education or employment.

9 (2) Require each school within its jurisdiction that enrolls pupils  
10 in grade 7 to develop a list of coursework and experience necessary  
11 to assist each pupil in grade 7 who is deemed to be at the far below  
12 basic level in English language arts or mathematics pursuant to  
13 California Standards Tests administered to pupils in grade 6 to  
14 successfully transition to high school and meet all graduation  
15 requirements, including passing the high school exit examination.

16 (3) Require each school within its jurisdiction to provide a copy  
17 of the list of coursework and experience necessary to the pupil and  
18 his or her parent or legal guardian. The school district or county  
19 office of education shall ensure that the list of coursework and  
20 experience is part of the cumulative records of the pupil.

21 (e) (1) Include in the list required pursuant to subdivision (b)  
22 of coursework and experience for a pupil enrolled in grade 12  
23 options for continuing his or her education if he or she fails to meet  
24 graduation requirements. These options shall include, but not be  
25 limited to, all of the following:

26 (A) Enrolling in an adult education program.

27 (B) Enrolling in a community college.

28 (C) Continuing enrollment in the pupil's school district.

29 (2) A copy of the list of coursework and experience necessary  
30 shall be provided to the pupil and his or her parent or legal  
31 guardian. The school district or county office of education shall  
32 ensure that the list of coursework and experience is part of the  
33 cumulative records of the pupil.

34 (d) Require each school within its jurisdiction to offer and  
35 schedule an individual conference with each pupil, identified in  
36 paragraphs (1) and (2) of subdivision (b), and his or her parent or  
37 legal guardian, and a school counselor. The individual conference  
38 shall be scheduled, to the extent feasible, according to the following  
39 requirements:

1     ~~(1) For a pupil enrolled in grade 7, the conference shall occur~~  
2     ~~before January of that school year in which the pupil is enrolled~~  
3     ~~in grade 7.~~

4     ~~(2) For a pupil enrolled in grade 10, the conference shall occur~~  
5     ~~between the spring of that school year in which the pupil is enrolled~~  
6     ~~in grade 10 and the fall of the following school year in which the~~  
7     ~~pupil would be enrolled in grade 11. For the 2006–07 school year,~~  
8     ~~the conference shall occur on or before December 31, 2006.~~

9     ~~(3) For a pupil enrolled in grade 12, the conference shall occur~~  
10    ~~after November of that school year in which the pupil is enrolled~~  
11    ~~in grade 12, but before March of the same school year.~~

12    ~~(e) Require that the school counselor, during the individual~~  
13    ~~conference described in subdivision (d), apprise the pupil identified~~  
14    ~~in paragraphs (1) and (2) of subdivision (b) and his or her parent~~  
15    ~~or guardian of the following:~~

16    ~~(1) Consequences of not passing the high school exit~~  
17    ~~examination.~~

18    ~~(2) Programs, courses, and career technical education options~~  
19    ~~available for pupils needed for satisfactory completion of middle~~  
20    ~~or high school.~~

21    ~~(3) Cumulative records and transcripts of the pupil.~~

22    ~~(4) Performance on standardized and diagnostic assessments of~~  
23    ~~the pupil.~~

24    ~~(5) Remediation strategies, high school courses, and alternative~~  
25    ~~education options available to the pupil.~~

26    ~~(6) Information on postsecondary education and training.~~

27    ~~(7) The pupil's score on the English language arts or~~  
28    ~~mathematics portion of the California Standards Test administered~~  
29    ~~in grade 6, as applicable.~~

30    ~~SEC. 2. Section 52379 of the Education Code is amended to~~  
31    ~~read:~~

32    ~~52379. (a) Funds appropriated in the annual Budget Act for~~  
33    ~~the purposes of this chapter shall be allocated to a school district~~  
34    ~~or county office of education based on an equal amount per pupil~~  
35    ~~enrolled in the district or county office programs in the prior fiscal~~  
36    ~~year, based on the fall California Basic Educational Data System~~  
37    ~~(CBEDS) enrollment data, in grades 7 to 12, inclusive, with the~~  
38    ~~following minimum grant exceptions:~~

39    ~~(1) Five thousand dollars (\$5,000) for each schoolsite that has~~  
40    ~~100 or fewer pupils enrolled in any of grades 7 to 12, inclusive.~~

1     ~~(2) Ten thousand dollars (\$10,000) for each schoolsite that has~~  
2     ~~between 101 and 200 pupils enrolled in any of grades 7 to 12,~~  
3     ~~inclusive.~~

4     ~~(3) Thirty thousand dollars (\$30,000) or an amount per pupil~~  
5     ~~enrolled, whichever is greater, for each schoolsite with more than~~  
6     ~~200 pupils enrolled in any of grades 7 to 12, inclusive.~~

7     ~~(b) Funds allocated pursuant to this section shall supplement,~~  
8     ~~and not supplant, expenditures made by a school district or county~~  
9     ~~office of education for school counseling programs.~~

10    ~~(c) For purposes of this section, a charter school is not eligible~~  
11    ~~to receive a minimum grant but instead shall receive an amount~~  
12    ~~per pupil enrolled in grades 7 to 12, inclusive.~~

13    ~~(d) Funds appropriated in the annual Budget Act for the purposes~~  
14    ~~of this chapter shall be used to provide supplemental counseling~~  
15    ~~services delivered by personnel who hold a valid pupil personnel~~  
16    ~~services credential.~~

17    ~~SEC. 3. Section 52380 of the Education Code is amended to~~  
18    ~~read:~~

19    ~~52380. As a condition of receipt of funds pursuant to this~~  
20    ~~chapter, a school district or county office of education shall submit~~  
21    ~~an annual report in a manner determined by the Superintendent~~  
22    ~~that describes the number of pupils served, the number of school~~  
23    ~~counselors involved in conferences, the number and percentage~~  
24    ~~of pupils who participated in conferences and who successfully~~  
25    ~~pass the high school exit examination, and the number and~~  
26    ~~percentage of pupils who participated in conferences and who fail~~  
27    ~~to pass one or both sections of the exit examination, and a summary~~  
28    ~~of the most prevalent results for pupils based on the graduation~~  
29    ~~plans developed pursuant to this chapter.~~